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OFFICE OF PETITIONS

Applicant: Kool
Appl. No.: 09/997,931
Filing Date: November 30, 2001
Title: CIRCULAR DNA VECTORS FOR SYNTHESIS OF RNA AND DNA
Attorney Docket No.: 220.00010150
Pub. No.: US 2003/0087241 A1
Pub. Date: May 8, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on May 28, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains several material errors.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹ The instant request does not identify a material mistake in the publication made by the Office:

The error in dependent claim 85, wherein "the RNA molecules range in length from about 50 to 10⁴ nucleotides" is misspelled as "the RNA molecules range in length from about 50 to 104 nucleotides" is not a material mistake, as the error is a typographical error, the phrase was correctly written in the specification and is highlighted by the improper dependency in claim 86 and furthermore the claim has been canceled. Since the specification was accurately published, one can read and understand the content of the application and if someone was confused by the error, it is clearly written in the specification. It is also not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or to determine the scope of the patent application publication or of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The misspelling of "delectably" for "detectably" in dependent claim 90 is a minor typographical error which is clearly understandable from reading the sentence and in which the term is used, as the term is not read in a vacuum. It is also not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published"

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

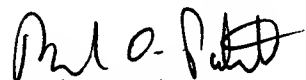
Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 1635 to await further examination in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).



Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy